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12 SUPERIOR COURT OF STATE OF ARIZONA
13 COUNTY OF YAVAPAI

14 STATE OF ARIZONA,
15 Plaintiff,
16 vs.
JAMES ARTHUR RAY,
17 Defendant.
18

CASE NO. V1300CR201080049

Hon. Warren Darrow

DIVISION PTB

**DEFENDANT JAMES ARTHUR RAY'S
MOTION TO LIMIT THE STATE'S
PROPOSED VOIR DIRE**

19
20 The State's Requested Voir Dire, filed January 31, 2011, asks this Court to pose to the
21 jury a list of 43 questions spanning a wide range of issues. The State divides its request into three
22 sections: (A) "Identification of the Parties, Witnesses, and Counsel," encompassing six questions;
23 (B) "Standard Voir Dire," encompassing eighteen questions, and (C) "Specific Voir Dire,"
24 encompassing nineteen questions. The Defense does not object to the Court asking the questions
25 listed in Category (A), and to questions 1-16 and 18 in Category (B). Those questions are
26 appropriate under Arizona Rule of Criminal Procedure 18.5, which provides that "the court shall
27 conduct a thorough oral examination of prospective jurors." Ariz. R. Crim. P. 18.5(d).
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JEANNE M. ASHLER

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BY: Ivy Rios

1 The Defense does object to the Court asking the questions in Category (C), and to
2 question 17 in Category B. First, question 17 in Category B is phrased in an unnecessarily
3 provocative manner. As currently drafted, the question asks, "If you were the State, charged with
4 enforcing the laws and protecting the public, or if you were the Defendant, standing before the
5 Court, is there any reason whatsoever why you would not want a person just like you on the
6 jury?" The question should instead say "If you were either party, the State or the defendant, is
7 there any reason whatsoever why you would not want a person just like you on the jury?"

8 Second, the questions in Category C—which include inquiries into potential jurors'
9 experience with Tarot cards, their beliefs in "channeling," and their views on whether "crystals
10 are a source of energizing power"—fall outside the Court's role in *voir dire*, which is to ensure a
11 fair and impartial jury by eliciting a potential juror's qualifications and prejudices. *See State v.*
12 *Baumann*, 125 Ariz. 404, 409 (Ariz. 1980) ("The purpose of *voir dire* examination is to determine
13 whether prospective jurors can fairly and impartially decide the case at bar."). Nor do the
14 questions have any obvious connection the State's ability to "exercise intelligently [its]
15 peremptory challenges." *See* Ariz. R. Crim. P. 18.5(e) ("The examination of prospective jurors
16 shall be limited to inquiries directed to bases for challenge for cause or to information to enable
17 the parties to exercise intelligently their peremptory challenges.").

18 If appropriate at all, the questions in Category (C) should be asked by the prosecution as
19 part of further oral examination. The determination whether to permit such attorney-conducted
20 examination lies in the Court's discretion. *See id.* 18.5(d) ("Upon the request of any party, the
21 court shall permit that party a reasonable time to conduct a further oral examination of the
22 prospective jurors. The court may impose reasonable limitations with respect to questions allowed
23 during a party's examination of the prospective jurors, giving due regard to the purpose of such
24 examination. In addition, the court may terminate or limit *voir dire* on grounds of abuse.").

1 DATED: February 2nd, 2011

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8 Copy of the foregoing delivered this 2nd day
9 of February, 2011, to:

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13 by 